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15
 16 UNITED STATES DISTRICT COURT
 17 NORTHERN DISTRICT OF CALIFORNIA
 18 SAN FRANCISCO DIVISION

19 SHERIFF CHRISTINA CORPUS,

20 Plaintiff,

21 v.

22 DAVID CANEPA, President and Member of
 23 the San Mateo County Board of Supervisors,
 24 NOELIA CORZO, Vice-President and
 25 Member of the San Mateo County Board of
 26 Supervisors, JACKIE SPEIER, Member of the
 27 San Mateo County Board of Supervisors,
 28 RAY MUELLER, Member of the San Mateo
 County Board of Supervisors, LISA
 GAUTHIER, Member of the San Mateo
 County Board of Supervisors, and
 DOES 1-10,

Defendants.

Case No. 3:25-cv-5962-VC

**DEFENDANTS' NOTICE OF MOTION
 AND MOTION TO DISMISS
 COMPLAINT; MEMORANDUM OF
 POINTS AND AUTHORITIES IN
 SUPPORT THEREOF**

Date: November 6, 2025
 Time: 10:00 a.m.
 Dept: Courtroom 4, 17th Floor
 Judge: Hon. Vince Chhabria

Date Filed: July 15, 2025

Trial Date: Not Yet Set

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NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on November 6, 2025, at 10:00 a.m. in Courtroom 4, 17th Floor, 450 Golden Gate Avenue, San Francisco, California, before the Honorable Vince Chhabria, Defendants of the San Mateo County Board of Supervisors (“Defendants”) will and hereby do move, pursuant to Rule 12(b) of the Federal Rules of Civil Procedure, for an order dismissing Sheriff Christina Corpus’s amended complaint.

The issues to be decided are as follows:

1. Whether Sheriff Corpus's claims are ripe for judicial review under Fed. R. Civ. P. 12(b)(1) even though she can identify only a speculative, potential future injury;
2. Whether this Court should decline to exercise jurisdiction under the *Colorado River* doctrine;
3. Whether Sheriff Corpus has failed to state a claim for relief on each of her claims under Fed. R. Civ. P. 12(b)(6).

This motion is based upon this Notice; the following Memorandum of Points and Authorities; Defendants' request for judicial notice; the complete files and records in this action; the argument of counsel; and such other matters as the Court may consider.

Dated: September 29, 2025

KEKER, VAN NEST & PETERS LLP

By: *s/Andrew F. Dawson*

JAN NIELSEN LITTLE
ANDREW F. DAWSON
FRANCO MUZZIO

Attorneys for Defendants
DAVID CANEPA, NOELIA CORZO,
JACKIE SPEIER, RAY MUELLER,
and LISA GAUTHIER

1 **I. INTRODUCTION**

2 Having repeatedly failed to obtain relief from state court in a materially indistinguishable
 3 suit, Plaintiff Christina Corpus comes to this Court seeking a different outcome. Plaintiff
 4 challenges the duly authorized procedures implemented by San Mateo County to exercise its
 5 Constitutional duty to oversee the Sheriff's office. Pursuant to those procedures, Plaintiff has
 6 been accused of serious misconduct, and a neutral hearing officer has taken evidence and will
 7 render an opinion on those accusations. Plaintiff would prefer that these processes cease, and she
 8 alleges that Defendants' lawful oversight obligations amount to a litany of constitutional
 9 violations.

10 Plaintiff is wrong, and for various reasons her amended complaint should be dismissed.

11 *First*, the dispute alleged in the amended complaint is not ripe, and this Court therefore
 12 does not have jurisdiction to hear it. The ultimate injury that Plaintiff alleges—her removal as
 13 Sheriff—has not occurred and remains entirely speculative, as the administrative proceedings
 14 have not yet resulted in a final order. Because the dispute is not ripe, the Court should dismiss for
 15 lack of subject matter jurisdiction under Rule 12(b)(1).

16 *Second*, even if this Court had subject matter jurisdiction, it should decline to exercise it
 17 here. Long before filing an action in this Court, Plaintiff instituted proceedings in San Mateo
 18 County Superior Court, where she filed multiple requests for emergency relief (all denied), briefly
 19 pursued an appeal, sought reconsideration of one of that court's orders, and requested a stay.
 20 Even after filing her amended complaint in this Court, Plaintiff continues to seek injunctive relief
 21 in state court. Contrary to Plaintiff's allegations, the state court is actively engaged with
 22 Plaintiff's claims; in June, it denied Plaintiff's TRO request, in July it agreed (at Plaintiff's
 23 request) to specially set a motion for reconsideration of the June denial; in August, it issued an
 24 order upholding its June denial; and in September (thus far) the state court has held a case
 25 management conference, received supplemental briefing about its jurisdiction to issue interim
 26 relief, and held an hour-long hearing on Plaintiff's renewed TRO application in that forum.
 27 Plaintiff's choice to toggle between state and federal court in search of a more favorable outcome
 28 is transparent forum shopping. On these facts, this Court should decline to exercise jurisdiction in

1 this second-filed case pursuant to *Colorado River Water Conservation District v. United States*,
 2 424 U.S. 800, 817 (1976).

3 **Third**, each cause of action in the amended complaint suffers from pleading deficiencies
 4 and therefore must be dismissed under Rule 12(b)(6). Plaintiff's procedural due process claim
 5 fails because she has not alleged a cognizable liberty interest, and even if she had, the process
 6 outlined in the amended complaint is far more rigorous than the constitutional minimum. Her
 7 substantive due process claim fails because there is no due process right to be free from the threat
 8 of removal. Plaintiff's claims under the *ex post facto* and bill of attainder clauses fail because
 9 both clauses apply only to proceedings akin to criminal punishment, not local government
 10 oversight functions mandated by the California Constitution.

11 For these reasons, this Court should grant Defendants' Motion to Dismiss.

12 **II. BACKGROUND**

13 **A. Following allegations of serious misconduct, voters overwhelmingly passed a
 14 ballot measure allowing the Board to remove a sheriff from office.**

15 On January 3, 2023, Christina Corpus became the Sheriff of San Mateo County. Since
 16 assuming office, her tenure has been defined by controversy and allegations of wrongdoing. In
 17 late 2024, the Honorable LaDoris H. Cordell (Ret.) submitted a 92-page investigative report to the
 18 San Mateo County Board of Supervisors (the "Board") finding that Plaintiff had engaged in
 19 substantial misconduct. ECF 1-1 at 31, 97–98.¹

20 On December 3, 2024, the Board submitted a measure to San Mateo County voters to
 21 amend the County Charter to allow the Board to remove a sheriff from office for cause ("Measure
 22 A"). On March 4, 2025, San Mateo County residents passed Measure A, adding Section 412.5 to
 23 the San Mateo County Charter, by a margin of 84% to 16%. ECF 1-2 at 126.

24 Section 412.5 specifies that the Board "may remove a Sheriff from office for cause, by a
 25 four-fifths vote" and states five grounds that can qualify as "cause" for removal. ECF 1-2 at 182.

26
 27 ¹ The Court may consider the Plaintiff's exhibits and declarations incorporated into its complaint in
 28 resolving this motion. *In re NVIDIA Corp. Sec. Litig.*, 768 F.3d 1046, 1051 (9th Cir. 2014) ("In
 reviewing the sufficiency of a complaint, we limit ourselves to the complaint itself and its
 attached exhibits, documents incorporated by reference, and matters properly subject to judicial
 notice.").

1 It also authorizes the Board to adopt procedures governing any removal proceeding to determine
 2 whether such cause exists. *Id.* Assisted by outside counsel and with input from Plaintiff's
 3 counsel, the Board adopted final removal procedures on May 6, 2025. *See* ECF 1-2 at 182–90.

4 **B. The Removal Procedures provide robust procedural protections for Plaintiff.**

5 On June 5, 2025, pursuant to the Removal Procedures, the Board approved and submitted
 6 a statement of the alleged grounds for Plaintiff's removal—the “Notice of Intent to Remove the
 7 Sheriff” (“NOI”). ECF 1-2 at 183 (§ I.2).² The NOI is the product of an independent
 8 investigation completed by the undersigned counsel based on interviews of more than 40
 9 witnesses. *Id.* at 116–180. It describes in detail the factual allegations and legal grounds
 10 supporting Plaintiff's removal under Section 412.5. *Id.* These allegations include that Plaintiff:
 11 (1) engaged in a pattern of retaliation against Sheriff's Office personnel, including the false arrest
 12 of the deputy sheriff's union leader and termination of an assistant sheriff after he agreed to an
 13 interview with Judge Cordell; (2) violated conflict of interest laws by hiring and promoting an
 14 unqualified civilian with whom she had a close personal relationship; and (3) mismanaged and
 15 neglected internal investigations into allegations of misconduct within her office. *Id.* Although
 16 the NOI reaches similar conclusions, it does not do so in reliance on Judge Cordell's report or any
 17 of its findings. *Id.* at 126.

18 Pursuant to the Removal Procedures, Plaintiff attended a pre-removal conference on June
 19 11, 2025, before the County's Chief Probation Officer, John Keene, and had “an opportunity to
 20 respond to the allegations” in the NOI. ECF 1-2 at 183 (§ I.3). Plaintiff provided her own
 21 (unsworn) testimony, which Chief Keene considered. *Id.* at 192–251. He found Plaintiff's
 22 conduct “violated the for-cause provisions in . . . Section 412.5(b) as articulated in the [NOI].”
 23 *Id.* at 253. He recommended “the Board of Supervisors approve and adopt the [NOI] and move
 24 forward with the proposed removal action.” *Id.* On June 24, 2025, the Board passed a resolution
 25 sustaining his recommendation to remove Plaintiff from office under Section 412.5, subject to the
 26 Sheriff's right to appeal. *See id.* at 255.

27
 28 ² Unless otherwise indicated, internal punctuation, footnotes, and citations were omitted from,
 and any emphases were added to, quotations.

1 On June 27, 2025, Plaintiff submitted an appeal of the Board’s decision, triggering a two-
 2 week evidentiary hearing before a neutral hearing officer. ECF 48, ¶ 57; ECF 1-2 at 186 (§ II).
 3 Plaintiff agreed to the Honorable James C. Emerson (Ret.) to serve as the hearing officer, and the
 4 hearing occurred as scheduled from August 18 to 29, 2025. ECF 48, ¶ 58. The County bore the
 5 burden of proof, and Plaintiff was entitled to present and cross-examine witnesses at the hearing.
 6 ECF 1-2 at 186 (§ III.1, III.2). Judge Emerson has 45 days after the hearing to issue a written
 7 opinion on whether cause exists to remove Plaintiff. *Id.* at 187 (§ III.3). The Board must
 8 consider Judge Emerson’s written opinion before it issues a “Final Decision” as to whether to
 9 remove Plaintiff. *Id.* at 188 (§ IV).

10 **C. Plaintiff will remain in office until the Board has made a final decision.**

11 Throughout the administrative process, Plaintiff remains in office and is receiving her full
 12 salary. Only if the Board makes the “Final Decision After Removal Hearing,” following the
 13 evidentiary hearing before Judge Emerson, would Plaintiff be removed from office. *Id.* at 188
 14 (§ IV.2.C).

15 **D. Plaintiff filed this lawsuit after having twice failed to obtain the same relief in
 16 San Mateo Superior Court.**

17 **1. Plaintiff filed a similar state court complaint to stop the removal
 18 proceeding and sought a temporary restraining order.**

19 On June 9, 2025, Plaintiff filed a petition for writ of mandate and a complaint for
 20 declaratory and injunctive relief in San Mateo Superior Court seeking a temporary restraining
 21 order (“TRO”) or stay prohibiting “the Board from enforcing or acting under the Notice of Intent
 22 to Remove.” *See* Declaration of Andrew Dawson in Support of Motion to Dismiss (“Dawson
 23 Decl.”), Ex. A. In that complaint, Plaintiff raised identical federal law claims as she raises here,
 24 including that the Removal Procedures violate her purported federal due process rights under the
 25 Fourteenth Amendment and that Section 412.5 is an ex post facto law and bill of attainder under
 26 Article 1, Section 10, of the U.S. Constitution. *Id.* at 5–7. On June 9, as conceded by Plaintiff,
 27 the Honorable Nicole S. Healy heard Plaintiff’s TRO application and denied it orally from the
 28 bench, ruling that the application was premature and not ripe because Plaintiff had not completed
 the administrative process. ECF 23, at 15–16.

1 On June 27, 2025, undeterred by her initial failure, Plaintiff filed another TRO application
 2 in the San Mateo Superior Court, again seeking to enjoin the Board from scheduling or
 3 conducting any removal hearing.” Dawson Decl., Ex. B. The second TRO request again relied
 4 on the same claims that she raises in this Court. *Id.* at 18-27. On June 27, the Honorable Nina
 5 Shapirshteyn, like her colleague Judge Healy a few weeks earlier, denied the application.
 6 Dawson Decl., Ex. C. Judge Shapirshteyn held the application was “not ripe, because an
 7 administrative appeal is available and [Sheriff Corpus] has not exhausted administrative
 8 remedies.” *Id.*

9 On July 10, 2025, Plaintiff filed a motion for reconsideration of Judge Shapirshteyn’s
 10 order, arguing that she need not exhaust the administrative process. Dawson Decl., Ex. D. Judge
 11 Shapirshteyn denied this motion in an uncontested tentative ruling on August 14, 2025. Dawson
 12 Decl., Ex. E.

13 **2. After failing to obtain relief, Plaintiff filed a federal complaint before
 14 this Court.**

15 On July 15, 2025, having failed twice to obtain her desired injunctive relief in state court,
 16 Plaintiff filed this federal action. As in her state court petition, she once again alleges here that
 17 the Board’s Removal Procedures violate due process under the U.S. Constitution, and that Section
 18 412.5 constitutes an ex post facto law and bill of attainder. And, as in state court, Plaintiff’s
 19 request for injunctive relief from this Court was denied. ECF 45.

20 **3. Plaintiff returns, once again, to state court.**

21 On September 15, the same day she filed her amended complaint before this court,
 22 Plaintiff filed a Motion to Stay/Enjoin Enforcement of Removal to Preserve Status Quo Pending
 23 Judicial Review in state court. Dawson Decl., Ex. F.

24 **III. LEGAL STANDARD**

25 “In order to ensure that a federal court’s Article III power has been properly invoked, the
 26 courts have developed several doctrines, including standing, mootness, and ripeness, each of
 27 which imposes a different requirement on the substance of a plaintiff’s claim.” *Lee v. State of*
Or., 107 F.3d 1382, 1387 (9th Cir. 1997). “The basic rationale of the ripeness doctrine is to

1 prevent the courts, through avoidance of premature adjudication, from entangling themselves in
 2 abstract disagreements.” *Id.* A matter “is not ripe for adjudication if it rests upon contingent
 3 future events that may not occur as anticipated, or indeed . . . at all.” *Texas v. United States*, 523
 4 U.S. 296, 300 (1998). Plaintiff has the burden of establishing that a matter is ripe; an unripe
 5 claim must be dismissed under F.R.C.P. 12(b)(1). *See Ralston v. County of San Mateo*, 2021 WL
 6 3810269, at *3 (N.D. Cal. Aug. 26, 2021); *see also Leite v. Crane Co.*, 749 F.3d 1117, 1121 (9th
 7 Cir. 2014).

8 Even if a plaintiff can establish subject matter jurisdiction, courts have acknowledged
 9 various circumstances in which a court should nevertheless decline to exercise jurisdiction.
 10 Under the *Colorado River* doctrine, federal courts may stay or dismiss a suit in deference to a
 11 parallel concurrent state proceeding to avoid wasting judicial resources. *See Colorado River*
 12 *Water Conservation Dist. v. U.S.*, 424 U.S. 800, 817 (1976).

13 Lastly, dismissal under Rule 12(b)(6) is appropriate where a plaintiff fails to allege
 14 “enough facts to state a claim to relief that is plausible on its face.” *Turner v. City & Cty. of San*
 15 *Francisco*, 788 F.3d 1206, 1210 (9th Cir. 2015). “Threadbare recitals of the elements of a cause
 16 of action, supported by mere conclusory statements” are insufficient. *Ashcroft v. Iqbal*, 556 U.S.
 17 662, 678 (2009).

18 **IV. ARGUMENT**

19 **A. This Court lacks subject matter jurisdiction because Plaintiff’s claims are not**
 20 **ripe for review.**

21 This Court lacks subject matter jurisdiction to hear the Sheriff’s claims because they are
 22 unripe. Plaintiff remains in office as Sheriff during the pendency of the administrative
 23 proceedings.³ It is a “long-settled rule of judicial administration that no one is entitled to judicial
 24 relief for a supposed or threatened injury until the prescribed administrative remedy has been
 25 exhausted.” *Amerco v. N.L.R.B.*, 458 F.3d 883, 888 (9th Cir. 2006). Moreover, a plaintiff cannot

26
 27 ³ “Jurisdictional issues such as standing and ripeness are determined at the time the lawsuit was
 28 filed.” *Loc. Search Ass’n v. City & Cnty. of San Francisco*, 2013 WL 450845, at *3 (N.D. Cal.
 Feb. 4, 2013) (quoting *Sierra Club v. U.S. Army Corps of Eng’rs*, 446 F.3d 808, 814 (8th Cir.
 2006)).

1 get relief for an injury that has not occurred and, indeed, may never occur. A matter “is not ripe
 2 for adjudication if it rests upon contingent future events that may not occur as anticipated, or
 3 indeed . . . at all.” *Texas v. United States*, 523 U.S. 296, 300 (1998); *see also Flaxman v.*
 4 *Ferguson*, 2025 WL 2424420, at *3 (9th Cir. Aug. 22, 2025) (“Constitutional ripeness equates
 5 with Article III’s injury-in-fact requirement for standing.”).

6 Here, the amended complaint does not and cannot cite an actual injury because the
 7 administrative proceedings are still underway, and Plaintiff remains in her job. As the amended
 8 complaint alleges, Plaintiff has exercised her right to an administrative appeal, and a two-week
 9 evidentiary hearing was conducted between August 18 and 29 before Judge Emerson. ECF 48,
 10 ¶ 58. Judge Emerson has not yet issued his opinion. *Id.* Only after the Hearing Officer issues his
 11 report, and *if* the Board makes a final decision to remove will Plaintiff’s removal be “immediate[]
 12 and final.” ECF 1-2 at 188 (§ IV.2(C)); *see* ECF 48 ¶ 50. Because the amended complaint
 13 cannot allege facts related to such a final decision, the dispute it articulates is not ripe for review.
 14 *See Ass’n of Am. Med. Colleges v. United States*, 217 F.3d 770, 781 (2000); *see Nat’l Park Hosp.*
 15 *Ass’n v. Dep’t of Interior*, 538 U.S. 803, 807–08 (2003). Dismissal is therefore required under
 16 F.R.C.P. 12(b)(1). *See Ralston*, 2021 WL 3810269, at *3.

17 **B. The Court should abstain from exercising jurisdiction in this case.**

18 **1. The Court should dismiss the case under the *Colorado River* doctrine,
 19 in deference to on-going and overlapping state court proceedings.**

20 Even if this Court had subject matter jurisdiction, it should decline to exercise it and
 21 dismiss this second-filed case under *Colorado River Water Conservation District v. United*
 22 *States*, 424 U.S. 800, 817 (1976). Dismissal is proper under *Colorado River* when concurrent
 23 state and federal proceedings involve the same issues, and the plaintiff first filed in state court.
 24 *See Mendocino Ry. v. Ainsworth*, 113 F.4th 1181, 1188 (9th Cir. 2024); *Jenks v. DLA Piper (US)*,
 25 *LLP*, 2014 WL 3381947, at *9 (N.D. Cal. July 10, 2014) (Chhabria, J.). Courts consider an eight-
 26 factor balancing test to determine whether a dismissal or a stay is justified, including:

27 (1) which court first assumed jurisdiction over any property at stake; (2) the
 28 inconvenience of the federal forum; (3) the desire to avoid piecemeal litigation;
 (4) the order in which the forums obtained jurisdiction; (5) whether federal law or
 state law provides the rule of decision on the merits; (6) whether the state court

1 proceedings can adequately protect the rights of the federal litigants; (7) the desire
 2 to avoid forum shopping; and (8) whether the state court proceedings will resolve
 3 all issues before the federal court.

4 *Mendocino*, 113 F.4th at 1188. These factors are applied in “a pragmatic, flexible manner with a
 5 view to the realities of the case at hand.” *Id.*

6 These factors overwhelmingly favor dismissal here. There are concurrent federal and
 7 state proceedings that involve the exact same subject matter. Dawson Decl., Ex. A. The parties
 8 are functionally identical—the plaintiff in both cases is Sheriff Corpus, and the defendants in both
 9 cases are the San Mateo County Board of Supervisors. The relief sought is also identical: an
 10 injunction halting the Section 412.5 removal process on constitutional grounds. Plaintiff
 11 continues to vigorously pursue this relief in both forums. Dawson Decl., Ex. F. Allowing
 12 “different tribunals [to] consider the same issue, thereby duplicating efforts and possibly reaching
 13 different results,” would result in piecemeal litigation. *R.R. St. & Co. Inc. v. Transp. Ins. Co.*, 656
 14 F.3d 966, 979 (9th Cir. 2011); *see also Scottsdale Ins. Co. v. Parmerlee*, 2020 WL 1332146, at *5
 15 (N.D. Cal. Mar. 23, 2020) (where “both courts will address the same issue,” the “significant risk
 16 of duplication of effort . . . weighs heavily in favor of deferring to the state court.”).

17 Most significantly, Plaintiff has engaged in obvious forum shopping by first seeking relief
 18 in San Mateo Superior Court and then, only after being denied twice, filing a complaint in federal
 19 court asserting the same claims. She does not hide her forum shopping, alleging in her amended
 20 complaint that her filings in state court have “failed to get relief,” and (inaccurately) that the state
 21 court concluded “without much analysis” that her claims were not ripe given her failure to
 22 exhaust her administrative remedies. ECF 48 ¶ 51. Although Plaintiff “has become dissatisfied
 23 with the state court and now seeks a new forum for [her] claims,” this Court should have “no
 24 interest in encouraging this practice.” *Nakash v. Marciano*, 882 F.2d 1411, 1417 (9th Cir. 1989);
 25 *see also McDonald’s Corp. v. Villa Canterbury Corp.*, 1990 WL 11919, at *3 (9th Cir. Feb. 5,
 26 1990) (same); *Conte v. Aargon Agency, Inc.*, 2013 WL 1907722, at *5 (E.D. Cal. May 7, 2013)
 27 (“The ‘reactive nature’ of the federal litigation is quite clear” when the plaintiff has “filed her
 28 federal action shortly after the state court’s [adverse] ruling.”). “[I]t would be unseemly under
 these circumstances for a federal court to jump into this litigation.” *Jenks*, 2014 WL 3381947, at

1 *9 (dismissing under *Colorado River* and reasoning that the plaintiff had “put this dispute under
 2 the jurisdiction of the state court system at the outset”).

3 Plaintiff’s forum shopping is particularly egregious given that, even after disparaging the
 4 state court’s processes and seeking (unsuccessfully) injunctive relief in this Court, she has once
 5 again returned to state court to seek parallel injunctive relief. Dawson Decl., Ex. F.

6 None of the remaining factors meaningfully affect the analysis. There is no property at
 7 stake in the litigation rendering the first factor inapplicable. *See Mendocino*, 113 F.4th at 1188.
 8 The San Mateo Superior Court and this Court are within 40 miles of each other, making the
 9 second factor neutral. *Id.* And while Plaintiff’s claims arise under the federal Constitution,
 10 where “state and federal courts have concurrent jurisdiction over a claim, this factor becomes less
 11 significant.” *Id.* at 1190. Balancing the factors in a “pragmatic, flexible manner,” *id.* at 1188, the
 12 balance here clearly favors deference to the state proceeding and dismissal of the federal case.⁴

13 **C. The amended complaint fails to state a claim for relief.**

14 Even if this Court had jurisdiction and chose to exercise it, the amended complaint still
 15 must be dismissed for failure to state a claim. The amended complaint alleges four claims arising
 16 under the U.S. Constitution. Analysis of the elements of each of these claims reveals that
 17 Plaintiff has failed to allege sufficient facts to state a plausible claim for relief.

18 **1. The Sheriff fails to state a plausible procedural due process claim.**

19 The amended complaint asserts a single theory of alleged due process violation: the so-
 20 called “stigma plus” doctrine related to alleged defamation by state actors. ECF 48, ¶¶ 69–71.
 21 But as explained below, Plaintiff fails to allege sufficient facts establishing a protected liberty
 22 interest under this doctrine. And even if she did, she does not and cannot allege that the process
 23 she has received is inadequate. On the contrary, the amended complaint and the documents
 24 incorporated by reference reflect that Plaintiff has received far more process than the
 25 constitutional minimum.

26
 27

 28 ⁴ Although courts often stay cases rather than dismiss them under *Colorado River*, dismissal is appropriate where the plaintiff has engaged in forum-shopping. *See Wittenburg v. Russo & Steele, LLC*, 2013 WL 12190424, at *9 (C.D. Cal. Oct. 8, 2013).

a. Plaintiff has not alleged a cognizable liberty interest.

As developed by courts, the stigma-plus doctrine recognizes a cognizable liberty interest only in very narrow circumstances. The Ninth Circuit has held that a plaintiff asserting a liberty interest under the stigma-plus doctrine must satisfy three elements: (1) the government has disclosed a stigmatizing statement, (2) the plaintiff contests the accuracy of the statement, and (3) the statement is made in connection with the denial of “some more tangible interest such as employment.” *Chaudhry v. Aragon*, 68 F.4th 1161, 1170 (9th Cir. 2023). The third requirement is critical. “[H]arm to reputation alone is insufficient to implicate an individual’s liberty interest.” *Mustafa v. Clark Cnty. Sch. Dist.*, 157 F.3d 1169, 1179 (9th Cir. 1998); *see also Ulrich v. San Francisco*, 308 F.3d 968, 982 (9th Cir. 2002).⁵

First, Plaintiff cannot allege that the statements she cites in her complaint as defamatory were connected to a denial of a tangible employment interest. The bulk of the allegedly defamatory statements cited by Plaintiff were allegedly made by two supervisors in November and December 2024—several months before the Board even had state-law authority to initiate removal proceedings. These statements are too attenuated from a potential removal to support her claim. *See Kissner v. Loma Prieta Joint Union Sch. Dist.*, 2024 WL 347911, at *12 (N.D. Cal. Jan. 30, 2024) (disclosures months before termination too temporally attenuated).

Second, Plaintiff fails to allege denial of a tangible interest in employment. Plaintiff will continue as Sheriff of San Mateo County while her administrative appeal is pending. The complaint fails to plausibly allege evidence that four of the five Board members will “certainly” remove her at the end of the administrative process—which includes the two-week evidentiary hearing and factual and legal findings by a neutral hearing officer—and thus her claim fails as a matter of law. *See Hernandez v. Oregon Legislature*, 521 F. Supp. 3d 1025, 1036 (D. Or. 2021) (elected official had not suffered “denial of a tangible interest” where the legislature had not yet

⁵ The only protected interest alleged in the amended complaint is a liberty interest under the stigma-plus doctrine. Courts have repeatedly held that an elected official has no protected property interest in remaining in office. *See, e.g., Fouts v. Warren City Council*, 97 F.4th 459, 469 (6th Cir. 2024), *cert. denied*, 220 L. Ed. 2d 142 (Oct. 15, 2024) (“[F]ederal law confirm[s] that there is no property interest in holding public office.”); *Smith v. Nebraska*, 2024 WL 3200606, at *7-*8 (D. Neb. June 27, 2024) (removed sheriff had “no protected property interest in his elected position”).

1 voted to remove him and he had not shown removal was predetermined); *Murphy v. Goss*, 103 F.
 2 Supp. 3d 1234, 1241 (D. Or. 2015) (“Because there was no termination of Plaintiff’s
 3 employment, he fails to plead a constitutionally-protected employment deprivation.”).

4 **b. Plaintiff has not alleged inadequate process.**

5 Even if Plaintiff had alleged a cognizable interest, the amended complaint reflects that the
 6 process afforded to her is more than adequate. Due Process in this context affords a plaintiff
 7 “notice and a hearing to clear [her] name,” but there are otherwise “no hard and fast
 8 requirements.” *Moody v. Cnty. of Santa Clara*, 2018 WL 646686, at *7 (N.D. Cal. Jan. 30, 2018);
 9 *see also Shinault v. Hawks*, 782 F.3d 1053, 1057 (9th Cir. 2015) (“Due process is a flexible
 10 concept that varies with the particular situation.”).

11 The removal proceedings far surpass these requirements. Plaintiff has participated in a
 12 pre-removal conference before Chief Probation Officer Keene, and she has been afforded a two-
 13 week public evidentiary hearing before Judge Emerson, during which she presented evidence,
 14 subpoenaed witnesses, and cross-examined the witnesses who testified against her. ECF No. 1-2
 15 at 186, 192–251. The media extensively covered the testimony of the Sheriff and of witnesses
 16 who she called to testify. She cannot claim that such a process failed to provide an opportunity
 17 to clear her name. *See Mustafa*, 157 F.3d at 1179 (no deprivation of liberty interest where public
 18 employee was given opportunities at pre-deprivation hearing and arbitration to clear his name).

19 Additionally, Plaintiff’s conclusory allegation that two supervisors are biased against her
 20 is unavailing. There is a presumption of “honesty and integrity in policymakers with
 21 decisionmaking power,” especially where the state legislature confers that authority. *Hortonville*
Joint Sch. Dist. No. 1 v. Hortonville Educ. Ass’n, 426 U.S. 482, 497 (1976). Article XI, section 4
 22 of the California Constitution requires charter counties to establish procedures for the
 23 “compensation, terms and removal” of elected sheriffs. California Government Code § 25303
 24 tasks boards of supervisors with overseeing county officials.

25 The Board’s prior statements regarding the Sheriff’s performance following an initial
 26 investigation were within its proper oversight role and do not prevent it from overseeing the
 27 removal process. The Supreme Court’s decision in *FTC v. Cement Institute*, 333 U.S. 683 (1948),
 28

1 is instructive. There, the Court rejected claims of bias and prejudgment against FTC members
 2 who had previously testified before Congress that a cement pricing practice was illegal and later
 3 presided over an administrative proceeding on the same issue. *Id.* at 700–01. Because members’
 4 prior statements were based on “official investigations” conducted within the scope of their
 5 oversight duties, the members were not disqualified from acting as adjudicators in the
 6 administrative proceeding. *Id.* at 701–03; *see also Hortonville Joint Sch. Dist. No. 1*, 426 U.S. at
 7 491–92 (state school board’s prior involvement in dispute with striking teachers did not bar it
 8 from making dismissal decisions related to strike).

9 Likewise, in *Say v. Umatilla Sch. Dist.* 6, 364 F. App’x 385 (9th Cir. 2010), the Ninth
 10 Circuit rejected a superintendent’s due process claim based on the school board’s alleged bias,
 11 explaining the board’s “view about [his] performance”—which it developed before initiating
 12 termination proceedings—“was inevitable” because “it was [the board’s] responsibility to
 13 monitor him.” *Id.* at 386; *see also Killgore v. City of S. El Monte*, 860 F. App’x 521, 522–523
 14 (9th Cir. 2021) (councilmember’s statements on plaintiff’s criminal history before council vote on
 15 permit were relevant to vote and did not render council impermissibly biased). The same is true
 16 here: the Supervisors’ fulfillment of their public responsibility to monitor Plaintiff cannot render
 17 them improperly biased.

18 Moreover, the Removal Procedures interpose a neutral factfinder entirely independent of
 19 the Board to preside over the Removal Proceedings, which further bolsters the fairness of the
 20 procedures afforded to Plaintiff. ECF 1-2 at 182–90. As noted above, Judge Emerson is charged
 21 with preparing an initial recommendation regarding removal, and the Board is obligated to
 22 consider that recommendation before making a “Final Decision.” *See supra* Section II.B. Courts
 23 have repeatedly approved of this structure as neutralizing concerns regarding bias. For example,
 24 in *Ash Grove Cement Co. v. F.T.C.*, the Ninth Circuit rejected a due process challenge to a
 25 decision made by the FTC, relying in part on the fact that “[e]xtensive independent evidence was
 26 introduced before the administrative law judge and was available upon review by the
 27 Commission.” 577 F.2d 1368, 1377 (9th Cir. 1978). So too in *Simpson v. Office of Thrift*
 28 *Supervision*, the Ninth Circuit rejected a due process challenge to a decision made by the Director

1 of the Office of Thrift Supervision, noting that the plaintiff had been “entitled to a hearing before
 2 an ALJ before it reaches the Director for review,” and further observing that the plaintiff “makes
 3 no claim that the ALJ was biased.” 29 F.3d 1418, 1424 (9th Cir. 1994).

4 Nor do the Board’s investigatory and adjudicatory functions render the Removal
 5 Procedures constitutionally suspect. The Supreme Court and Ninth Circuit courts have long
 6 recognized that administrative bodies routinely incorporate both functions without violating due
 7 process. *Withrow v. Larkin*, 421 U.S. 35, 55 (1975) (holding that dual investigatory and
 8 adjudicative role of administrative body did not violate due process); *San Francisco Police*
 9 *Comm’n v. Police Comm’n of City & Cnty. of San Francisco*, 1996 WL 251940, at *6 (N.D. Cal.
 10 May 9, 1996) (dismissing procedural due process claim challenging a police commission’s
 11 initiation of an investigation in a misconduct case that it ultimately adjudicated).

12 **2. The Sheriff failed to state a substantive due process claim.**

13 The Sheriff also fails to plausibly state a substantive due process claim due to
 14 infringement of a protected interest. Generally, “only official conduct that shocks the
 15 conscience” establishes a substantive due process violation. *Sinclair v. City of Seattle*, 61 F.4th
 16 674, 680 (9th Cir.), cert. denied, 144 S. Ct. 88 (2023). Plaintiff alleges nothing that could
 17 possibly meet this standard.

18 Application of the Due Process Clause to claims alleging wrongful loss of employment is
 19 limited “to extreme cases, such as a government blacklist, which when circulated or otherwise
 20 publicized to prospective employers effectively excludes the blacklisted individual from his
 21 occupation, much as if the government had yanked the license of an individual in an occupation
 22 that requires licensure.” *Engquist v. Oregon Dep’t of Agric.*, 478 F.3d 985, 997–98 (9th Cir.
 23 2007). The Sheriff’s complaint fails to allege—nor could it plausibly allege—that the removal
 24 proceeding will preclude her from securing future employment, and her substantive due process
 25 claim fails as a result. *See Silva v. City of Los Gatos*, 2021 WL 5847885, at *2 (N.D. Cal. Dec. 9,
 26 2021) (dismissing where defendants had not “destroyed” the plaintiff’s “freedom to take
 27 advantage of other employment opportunities.”).

3. Plaintiff cannot show that Section 412.5 is an unlawful ex post facto punishment.

The U.S. Constitution's prohibition on ex post facto laws applies almost exclusively to criminal statutes. *Collins v. Youngblood*, 497 U.S. 37, 41 (1990) ("[T]he constitutional prohibition on ex post facto laws applies only to penal statutes which disadvantage the offender."); *Kansas v. Hendricks*, 521 U.S. 346, 370 (1997) ("The *Ex Post Facto* Clause . . . has been interpreted to pertain exclusively to penal statutes."). The prohibition only applies to civil laws under rare circumstances where the law is intended to punish, or its effects are "so punitive" as to override legislative intent. *United States v. Ward*, 448 U.S. 242, 248–49 (1980). Section 412.5, a civil law with no punitive intent, does not satisfy either of these conditions.

Courts presume laws are constitutional, and “only the clearest proof” suffices to show otherwise. *Does v. Wasden*, 982 F.3d 784, 791 (9th Cir. 2020); *SeaRiver Mar. Fin. Holdings, Inc. v. Mineta*, 309 F.3d 662, 669 (9th Cir. 2002). Oversight laws establishing a process to evaluate fitness for office do not constitute punishment. *See Garner v. Bd. of Pub. Works*, 341 U.S. 716, 722 (1951) (“We are unable to conclude that punishment is imposed by a general regulation which merely provides standards of qualification and eligibility for employment.”); *Hawker v. New York*, 170 U.S. 189, 197 (1898) (rejecting an ex post facto challenge to law barring felons from practicing medicine). Section 412.5 does not determine guilt or impose punishment—it authorizes the Board to remove any sheriff for cause based on five enumerated categories of misconduct. Removal from office is not punishment at all, but rather implementation of the California Constitution’s requirement that a county’s charter “provide for the ‘compensation, terms **and removal**’ of the sheriff.” *Penrod v. Cnty. Of San Bernardino*, 126 Cal. App. 4th 185, 190 (2005) (quoting Cal. Const. art. XI, § 4). The County’s exercise of this Constitutional command falls squarely within its oversight function and has no criminal implication whatsoever. Plaintiff fails to allege facts to the contrary.

4. Plaintiff cannot plausibly allege that Section 412.5 is a bill of attainder.

Plaintiff also claims that Section 412.5 is a bill of attainder because it “targets Sheriff Corpus specifically and no one else,” and “it punishes her without the safeguards of a judicial

1 trial.” ECF ¶ 93. The Bill of Attainder Clause forbids legislation that targets and imposes
 2 punishment on a *specific* individual without a judicial trial, but a law does not become a bill of
 3 attainder merely because it is applied to a single person; it must also determine guilt and impose
 4 punishment. *See SeaRiver*, 309 F.3d at 668; *U.S. v. Lovett*, 328 U.S. 303, 316 (1946); *Plaut v.*
 5 *Spendthrift Farm, Inc.*, 514 U.S. 211, 238 n.9 (1995). While the allegations of misconduct
 6 surrounding Sheriff Corpus exposed the need for greater oversight of the Sheriff’s Office, section
 7 412.5 does not specifically target Sheriff Corpus. It applies to *any person* occupying the office
 8 who engages in serious misconduct. If Sheriff Corpus resigns or is removed from office, the new
 9 sheriff will also be subject to section 412.5. Where, as here, a law applies to a generally defined
 10 class, it is not viewed as targeting a specific individual. *See SeaRiver*, 309 F.3d at 670-671
 11 (2002) (“When a statute’s retrospective impact on an individual or group is tied to a prospective
 12 risk to a larger and more generally defined class, that prospective and generalized effect tempers
 13 the concerns of “tyranny” by the “multitude” that motivated the inclusion of the Bill of Attainder
 14 Clause.”); *see also United States v. Munsterman*, 177 F.3d 1139, 1142 (9th Cir. 1999) (“[N]ot
 15 every law the effect of which is to disable some persons or groups is a bill of attainder.”).

16 Even if Section 412.5 targeted Sheriff Corpus specifically—and it does not—that fact
 17 would not be dispositive because, as with ex post facto laws, a bill of attainder must also impose
 18 punishment. However, as discussed above, removal from elected office for misconduct does not
 19 demonstrate legislative intent to punish, nor does a legislature punish a sheriff by establishing
 20 removal procedures. *See Nixon v. Adm’r of Gen. Servs.*, 433 U.S. 425, 475–77 (1977) (finding
 21 challenged law was not a bill of attainder because it did not enforce historically recognized
 22 punishment). The *SeaRiver* case Sheriff Corpus relies on in her amended complaint further
 23 supports that Section 412.5 is presumptively constitutional and weighs against Plaintiff’s
 24 assertion that Section 412.5’s sunset clause indicates it is a bill of attainder because it coincides
 25 with the end of Plaintiff’s term. *See SeaRiver*, 309 F.3d at 669, 673 (finding the challenged
 26 statute was not a bill of attainder because it “d[id] not inflict punishment” on the targeted entity).

27 **V. CONCLUSION**

28 For the foregoing reasons, the Defendants’ Motion to Dismiss should be granted.

1 Dated: September 29, 2025

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